

**Committee on Equal Opportunities**  
**Council on Postsecondary Education**  
**August 26, 2009**

Morehead State University  
Temporary Waiver of KRS 164.020(19)

<p><b>ACTION:</b> The Council staff does not make a recommendation regarding qualitative waivers. Representatives of Morehead State University will present information in support of the waiver request.</p>
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The Committee on Equal Opportunities is charged with monitoring institutional progress toward implementing *The Kentucky Plan for Equal Opportunities*. The Committee makes a recommendation to the Council on Postsecondary Education on the granting of qualitative waivers.

The Committee recommendation for a waiver of the requirements of KRS 164.020(19) must be based on the combination of the data provided in the agenda and the presentation of the institution on the date of the meeting. The Committee, in its recommendation to the Council, must identify the extenuating circumstances that prevented an institution from making the necessary progress and those things that indicate the probability of success in the future.

The Kentucky Plan is implemented through administrative regulation (13 KAR 2:060) implements KRS 164.020(19). The Kentucky Revised Statutes establish the Council's responsibility to approve the offering of new academic programs (KRS 164.020(14)) and also limit an institution's eligibility for new academic programs by the requirement that an institution meet its equal opportunity objectives (KRS 164.020(19)). The statutes do give the Council authority to grant a temporary waiver if an institution demonstrates progress in meeting equal opportunity objectives. The administrative regulation, 13 KAR 2:060, establishes the criteria used to determine an institution's compliance with equal opportunity objectives, and for the granting of a temporary waiver to a state-supported postsecondary education institution which has not met its objectives.

Morehead State University, with the approval of the Board of Regents (March 12, 2009), has requested a temporary waiver of the requirements of KRS 164.020(19) to allow approval of new academic programs during calendar year 2009. The granting of a waiver by the Committee does not limit the number of new academic programs that MSU may approve or ask the Council on Postsecondary Education to approve during calendar year 2009. If a waiver is granted for calendar year 2009, Morehead will not be eligible for a waiver in calendar year 2010.

The information to support the granting of a waiver is being provided in two separate submissions by Morehead State University. The first set of data was reviewed by the CEO April 16, 2009. At that time the committee determined that there was insufficient information to support a waiver. University officials have taken the opportunity to develop additional support for the waiver request and is presenting the new information at the August 26 meeting.

Following the presentation by university officials of the institution's request for a qualitative waiver, the CEO shall make a recommendation to the Council on whether a qualitative waiver should be granted. The Council shall consider the institution's request for a qualitative waiver at a subsequent meeting of the Council following submission of information by the institution in support of their request and after a recommendation is forwarded from the CEO.

### **Background Information:**

The CEO has recommended and the Council has granted six qualitative waivers since the passage of SB 398 [(KRS 164.020(19))] by the 1992 Session of the General Assembly.

The administrative regulation identifies three ways an institution may be eligible to approve new degree programs or to have new degree programs considered for approval:

- Automatic eligibility: continuous progress in three of four objectives in *The Kentucky Plan*.
- Quantitative waiver: continuous progress in two of four objectives in *The Kentucky Plan*.
- Qualitative waiver: the submission of information in support of outstanding efforts that were attempted which have not yet proven to be successful.

An institution not automatically eligible under Section 6 of the administrative regulation may request a one (1) year waiver (under Section 7) which shall be either quantitative or qualitative. Based on the 2009 evaluation of institutional progress Morehead is eligible to request a qualitative waiver under 13 KAR 2:060(7)(4).

A qualitative waiver may be approved for an institution failing to meet annual objectives if the institution can demonstrate:

- (a) Outstanding efforts that were attempted which have not yet proven to be successful or extraordinary circumstances that precluded success.
- (b) How the institution's revised plans for recruitment and retention of African American students or employees show promise of future success.